
HOUSE BILL No. 1674

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-208; IC 13-21.

Synopsis: Solid waste fees charged to municipalities. Allows the district board of a solid waste management district in which a solid waste landfill is located to impose fees on a municipality that is located in the district and that disposes of solid waste collected in the district at a location outside the district. Establishes the maximum amount of the fees and the manner of payment. Allows the district to impose a penalty for noncompliance.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1674

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-208, AS AMENDED BY P.L.218-2001,
- 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2003]: Sec. 208. "Solid waste landfill", for purposes of
- 4 IC 13-20-9, IC 13-20-21-6, **IC 13-21-3, IC 13-21-15**, and IC 13-22-9,
- 5 means a solid waste disposal facility at which solid waste is deposited
- 6 on or beneath the surface of the ground as an intended place of final
- 7 location.
- 8 SECTION 2. IC 13-21-3-12, AS AMENDED BY P.L.178-2002,
- 9 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2003]: Sec. 12. Except as provided in section 14.5 of this
- 11 chapter, the powers of a district include the following:
- 12 (1) The power to develop and implement a district solid waste
- 13 management plan under IC 13-21-5.
- 14 (2) The power to impose district fees on the final disposal of solid
- 15 waste within the district under IC 13-21-13.
- 16 (3) The power to receive and disburse money, if the primary
- 17 purpose of activities undertaken under this subdivision is to carry



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out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

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(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream; if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, **except as provided in IC 13-21-15-1(b)**, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by

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the board.

(22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:
 - (i) mercury commodities; and
 - (ii) mercury-added products; and
- (B) collection programs available to the public for:
 - (i) mercury commodities; and

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(ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

SECTION 3. IC 13-21-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. District Fees on a Municipality Using a Landfill Outside the District

Sec. 1. (a) The board of a district in which a solid waste landfill is located may, by adoption of a resolution, impose fees on a municipality that:

- (1) is located within the district;
- (2) collects solid waste within the municipality; and
- (3) disposes of the collected solid waste at a location outside the district.

(b) A resolution adopted by a board under subsection (a) is effective in a municipality described in subsection (a) irrespective of whether the municipality adopts the language of the resolution by ordinance or resolution.

Sec. 2. (a) The fees imposed by a board under this chapter may not exceed the amount of fees to which the collected solid waste would be subject if the municipality disposed of the collected solid waste in a solid waste landfill located in the district in which the municipality is located. For purposes of this section, the fees to which the collected solid waste would be subject include:

- (1) fees imposed under this article; and
- (2) any other fees imposed on the disposal of solid waste at a solid waste landfill located in the district.

(b) A municipality shall pay the fees imposed by a board under this chapter at the same time and in the same manner that fees would be paid by the municipality if the municipality disposed of the collected solid waste in a solid waste landfill located in the district in which the municipality is located.

Sec. 3. A resolution adopted by a board that establishes fees under this chapter may contain a provision that authorizes the board to impose a penalty of not more than five hundred dollars (\$500) per day because of:

- (1) nonpayment of fees; or
- (2) noncompliance with a condition in the resolution.

Sec. 4. All:

- (1) fees remitted to the district under section 1 of this chapter; and

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1 **(2) penalties remitted to the district under section 3 of this**
2 **chapter;**
3 **shall be deposited in the district solid waste management fund**
4 **established under IC 13-21-13-2.**

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